

## Conservation Easements

EXHIBIT NO. 9

Conservation easements have grown to over 1.5 million acres in Montana, improvements in data collection methods and public oversight of easements are 58453 necessary.

### Audit Findings

Analysis of conservation easement data shows there are now 1.5 million acres under easement. At the national level, Montana is a leading state in the creation of conservation easements. Easements provide protection for important habitats, but also bind future generations to current land uses. Given growth in easement acreage, they should be considered a significant land use issue for policy makers (Chapter II). Despite the growing significance of easements, Montana's approach to compiling and reporting easement data still relies on

voluntary cooperation. There is no method for accurately and consistently collecting easement data (Chapter III). Getting accurate data on easements is important because of effects relating to local property taxes, public funding and public oversight of easement transactions.

#### Summary Data for Conservation Easements

Conservation Easement Attribute	Value
Total Acreage	1,573,411
Percentage of State Land Area	1.68 %
Number of Easements	1,250
Average Acreage Per Easement	1,271
Largest Contiguous Easement Acreage	107,123

Source: Compiled by the Legislative Audit Division from agency records.

In relation to property taxes, easement creation has not resulted in decreased property tax collections through property reclassification. However, easement creation tends to result in maintenance of existing land uses and this indicates there could be shifts in tax collections over the long-term. There is, however, no clear evidence regarding the fiscal impact of these changes (Chapter IV).

Both direct and indirect public funding is available for conservation easements. Direct funding comes through easement acquisitions made by state agencies or counties. Indirect funding comes through the tax system, where individual and corporate tax deductions are available for easements as charitable contributions. Estimates show indirect funding impacts the state's General Fund by between \$1.7 and \$3 million annually. Taken together, direct and indirect public investment in easements has totaled in excess of \$100 million cumulatively over the years (Chapter V).

Public investment and the expectation of public benefits associated with easements establish a duty of public trust for both grantors and grantees. During our review of easement agreements, we identified several examples where it was unclear whether conservation values and the public trust were being protected. These situations highlight the need for public oversight of conservation easement transactions in Montana. The current approach to easement oversight has relied on voluntary efforts and self-policing by easement grantees (Chapter VI).

### Audit Recommendations

Improvements in data collection methods for conservation easements could be made by the Department of Revenue and the Department of Administration. Our recommendations address collection of easement data in counties and integration of this data in the state's Cadastral system (see p.30). To address public oversight of conservation easements, we recommend legislation be enacted to provide for improved oversight mechanisms and ensure the public trust is upheld in easement transactions (see p.65).



# Legislative Audit Division

State of Montana

Report to the Legislature

January 2007

## Performance Audit

### Conservation Easements

The Department of Administration  
The Department of Revenue  
The Montana Natural Heritage Program

This report contains findings and recommendations developed as a result of our performance audit of conservation easements in Montana. This audit was conducted in response to passage of Senate Joint Resolution 20 during the 2005 Legislative Session. Findings and recommendations are summarized as follows:

- ▶ Conservation easements cover 1.5 million acres and have become a significant land use issue.
- ▶ Trends show Montana is a national leader in creation of conservation easements.
- ▶ Improvements in compilation and reporting of easement data are necessary.
- ▶ Conservation easements have not adversely affected property taxes, but the long-term fiscal impact is unclear.
- ▶ Over \$100 million in public funding has been dedicated towards conservation easements in Montana.
- ▶ Public oversight of conservation easements should be improved to ensure the public trust is upheld.

A statewide map of Montana Conservation easements is included as Appendix A of this report.

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**Montana Conservation Easements by County and Grantee**  
**September 2008**

